IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No 1101 of 2006

Date of decision: April 2, 2007.

Ram Avtar

...Petitioner

Vs.

Subhash Chand Aggarwal and others

...Respondents.

Present: Mr. Sanjay Mittal, Advocate for petitioner.

Mr. R.K.Singh, Advocate for respondents 4,14,17,23,25,26 and 28.

JUDGMENT

M.M.Aggarwal, J.

This is petition against order dated 7.2.2006 of Addl. Civil Judge ((Sr. Division), Jhajjar whereby petitioner-plaintiff had been directed to pay ad valorem court fee on the sale consideration shown in the sale deed(s) as enumerated in para Nos. 2 and 3 of the order.

Plaintiff, now petitioner, had filed suit for declaration with consequential relief of permanent injunction and possession and also for partition by metes and bounds separating the shares, if any, of the defendants and declaring the plaintiff to be absolute owner of the property falling to his share, as mentioned in the plaint.

Respondents-defendants had taken objections that since the sale deeds had been executed in their favour, plaintiff, now petitioner, was liable to

pay ad valorem Court fee on the sale consideration shown in the sale deeds.

On behalf of the petitioner, it was argued that property was Joint Hindu Family Property and sale deed was executed by his father and when the property was Joint Hindu Family Property then no ad valorem court fee was payable. A Judgment of this Court reported as Gurjeewan Singh Vs. Jagar Singh and others 1990 PLJ 234 has been relied.

On behalf of the defendants-respondents, it was argued that if the suit of the plaintiff is decreed then it will amount to cancellation of sale deed and as such ad valorem court fee was payable. On behalf of the respondents, judgments reported as Beena and others Vs. Rajinder Kumar and others 2006 (2) RCR (Civil) 449, Lala Ram Vs. Vidya Wati 2006(2) RCR (Civil) 278, Ram Chander Vs. Rattan Lal 2002(1) PLJ 328 and Niranjan Kaur Vs. Nirbigan Kaur 1982 PLR 127 (FB) have been relied.

In this case, plaintiff-petitioner did not execute any sale deed. Sale deed, if any, had been executed by his father Ram Parshad. Plaintiff claims interest in the property on the plea that property is Joint Hindu Family Property and Ram Parshad could not execute the sale deed.

The suit is for declaration for consequential relief of permanent injunction and possession and also for partition by metes and bounds.

In the facts and circumstances of the case when plaintiff was not party to the sale deed stated to be executed by his father, he will not be liable to pay ad valorem court fee. As such, this petition is allowed. Impugned order dated 7.2.2006 of Addl. Civil Judge (Sr. Division) Jhajjar is set aside.

(M.M.Aggarwal)
Judge

April 2, 2007
raghav